

1                   UNITED STATES DISTRICT COURT  
2                   WESTERN DISTRICT OF TEXAS  
2                   PECOS DIVISION

3   UNITED STATES OF AMERICA   ) Docket No. PE 19-MJ-3030(1) DF  
4                                 )  
4   vs.                         ) Pecos, Texas  
5                                 )  
5   THOMAS ALAN ARTHUR       ) November 12, 2019

6  
7                   TRANSCRIPT OF INITIAL APPEARANCE  
7                   BEFORE THE HONORABLE DAVID B. FANNIN

8

9 APPEARANCES:

10 For the United States:      Ms. Monica R. Morrison  
11                                 Assistant U.S. Attorney  
11                                 110 9th Avenue South,  
12                                 Suite A961  
12                                 Nashville, Tennessee 37203

13

14 For the Defendant:          (No Appearance)

15

16 Also Present:                Ms. Mimi Smith

17 Transcriber:                Ms. Lily Iva Reznik, CRR, RMR  
18                                 501 West 5th Street, Suite 4153  
18                                 Austin, Texas 78701  
19                                 (512) 391-8792

20

21

22

23

24

25 Proceedings reported by digital sound recording,  
transcript produced by computer aided-transcription.

1 (Proceedings commence at 11:03 a.m.)

2 THE CLERK: Court calls: 19-M-3030, United  
3 States of America vs. Thomas Alan Arthur.

4 MS. MORRISON: Monica Morrison present on behalf  
5 of the United States.

6 MS. SMITH: Your Honor, Miami Smith. I'm asking  
7 that (indiscernible) appearance just through detention.

8 THE COURT: No.

9 MS. SMITH: Can't do that.

10 THE COURT: No.

11 MS. SMITH: Then he doesn't have -- he has  
12 lawyers that he's talking to to see if he can hire them  
13 but they are --

14 THE COURT: I'm not going to appoint -- I'm not  
15 going to have an attorney appear on a limited -- on a  
16 limited appearance.

17 MS. SMITH: Okay.

18 THE COURT: Mr. -- you are Mr. Arthur, sir?

19 | THE DEFENDANT: Yes, sir.

THE COURT: Mr. Arthur, you have been charged  
with three offenses. The criminal complaint in your case  
alleges that on November the 7th, 2019, in the Western  
District of Texas, that you committed the offenses of  
importation or transportation of obscene materials, in  
violation of Title 18, United States Code, Section 1462,

1 engaging in the business of selling or transporting  
2 obscene materials. This is a violation of Title 18,  
3 United States Code, Section 1466. And then, the  
4 distribution of obscene visual depictions of children, in  
5 violation of Title 18, United States Code, Section  
6 1466(a).

7 The ranges of punishment for transporting -- for  
8 transporting obscene materials is up to five years  
9 imprisonment, a fine not to exceed -- let me first ask you  
10 this.

11 Do you understand the three charges against you?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: The range of punishment for the  
14 offense of transport -- transferring obscene materials is  
15 up to five years imprisonment, a fine not to exceed  
16 \$250,000, a term of supervised release up to three years,  
17 and a \$100 special assessment.

18 Sir, do you understand the charge -- the range of  
19 punishment for the charge of importation or transportation  
20 of obscene materials?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: The range of punishment for engaging  
23 in the business of selling or transferring obscene  
24 material is up to five years imprisonment, a fine not to  
25 exceed \$250,000, a term of supervised release up to three

1 years, and a \$100 special assessment.

2 Sir, do you understand the range of punishment  
3 for the offense of engaging in a business of selling or  
4 transferring obscene materials?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: The third offense was the having  
7 visual representations or depictions of children in this  
8 -- involving the sexual abuse of children, rather, is a  
9 range of punishment of five years imprisonment to 20 years  
10 imprisonment, a fine not to exceed \$250,000, a term of  
11 supervised release of five years, up to life, and a \$100  
12 special assessment.

13 Mr. Thomas -- Mr. Arthur, do you understand the  
14 range of punishment for this third offense against you?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: The -- and, Ms. Morrison, was I  
17 correct with the range of punishment concerning the Class  
18 E felonies?

19 MS. MORRISON: That's correct, your Honor.

20 THE COURT: Thank you.

21 Mr. Arthur, are you a United States citizen, sir?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: You have the right to remain silent,  
24 the right to counsel, and the right to consideration of  
25 bail.

1           Sir, would you please raise your right hand, and  
2 the courtroom deputy will administer the oath.

3           THE CLERK: Do you swear to tell the truth, the  
4 whole truth, and nothing but the truth, so help you God?

5           THE DEFENDANT: I swear.

6           THE COURT: Mr. Arthur, would you please state  
7 your full name.

8           THE DEFENDANT: Thomas Alan Arthur.

9           THE COURT: And how old are you, sir?

10          THE DEFENDANT: How old?

11          THE COURT: How old are you?

12          THE DEFENDANT: Sixty-three.

13          THE COURT: And what was the last grade of school  
14 that you completed?

15          THE DEFENDANT: Senior high school plus college.

16          THE COURT: And do you have any physical or  
17 mental difficulties that prevent you or keep you from  
18 understanding this hearing today?

19          THE DEFENDANT: I do not, sir.

20          THE COURT: Are you presently under the influence  
21 of any type of medication or narcotic drug?

22          THE DEFENDANT: I am not, your Honor.

23          THE COURT: Okay. And, Mr. Arthur, do you have  
24 -- are you presently working?

25          THE DEFENDANT: I was --

1           THE COURT: And I'm not talking about anything  
2 involving this case.

3           Do you have a job?

4           THE DEFENDANT: No, sir.

5           THE COURT: Okay. Do you have a bank account?

6           THE DEFENDANT: Yes, your Honor.

7           THE COURT: And how much money do you have in  
8 your bank account?

9           THE DEFENDANT: Around \$10,000.

10          THE COURT: And is this a bank account that's  
11 jointly owned with anybody else?

12          THE DEFENDANT: My wife.

13          THE COURT: Okay. Mr. Arthur, you may hire an  
14 attorney of your choice if you so choose.

15          Let me ask you this: Are you -- do you own any  
16 property?

17          THE DEFENDANT: I do.

18          THE COURT: What is the -- would you describe the  
19 nature of your property that you own?

20          THE DEFENDANT: Real estate property.

21          THE COURT: Okay. And where's that located?

22          THE DEFENDANT: South Brewster County.

23          THE COURT: Okay. And do you have a -- what was  
24 the tax value of this property?

25          THE DEFENDANT: I don't have a current appraisal

1 for the entire property. It's --

2 THE COURT: When you paid taxes last year, what  
3 was the tax value of the property?

4 THE DEFENDANT: It's under some 20 different  
5 deeds.

6 THE COURT: That didn't answer my question.

7 THE DEFENDANT: I don't have that amount, an  
8 accurate amount, but the property taxes for a year on that  
9 property, 2,500 to 3,000, I believe.

10 THE COURT: Okay. So would you estimate that  
11 your property is worth between 100 and \$200,000?

12 THE DEFENDANT: I would estimate it to be worth  
13 around 5 to 600,000, your Honor.

14 THE COURT: Okay. Mr. Arthur, I find that you do  
15 not qualify for a court-appointed attorney, and that means  
16 that you're going to have to hire an attorney to represent  
17 you in this matter. Ms. Smith was kind enough to come to  
18 court today and she was -- she indicated that she would  
19 like to appear on a limited basis. I'm not going to allow  
20 her to do that. Not mainly because you have the right to  
21 have an attorney who is going to represent you from the  
22 start to finish in this case, and having somebody appear  
23 for a limited basis does not help the next attorney that's  
24 in line who you would hire. And so, it's in your best  
25 interest to hire an attorney as soon as you can to

1 represent you in this matter.

2 Do you understand?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: I'm going to set your matter for a  
5 preliminary examination and detention hearing for  
6 Wednesday, November the 20th at 9:30, in the courtroom in  
7 Alpine, Texas. You would need to have your attorney  
8 present for that appearance because if you do not have an  
9 attorney to represent you on the 20th, then I can't go  
10 forward, and I can't consider whether or not to award you  
11 bail or not.

12 Do you understand?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay. Mr. Arthur, you have the right  
15 to remain silent. Anything that you say may be used  
16 against you. You have the right to have an attorney to --  
17 any statements that you've made in the past will certainly  
18 be used against you or possibly be used against you. I'm  
19 going to advise you to not speak about your case to  
20 anybody until you hire an attorney to represent you.

21 Do you understand?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Okay. Do you have any questions for  
24 me?

25 THE DEFENDANT: No, sir.

1           THE COURT: Okay. I'll see you back in court on  
2 the 20th.

3           THE DEFENDANT: Thank you, your Honor.

4           (Proceedings conclude at 11:12 a.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

## 3 REPORTER'S CERTIFICATE

4

5 I, LILY I. REZNIK, DO HEREBY CERTIFY THAT THE FOREGOING  
6 WAS TRANSCRIBED FROM AN ELECTRONIC RECORDING MADE AT THE  
7 TIME OF THE AFORESAID PROCEEDINGS AND IS A CORRECT  
8 TRANSCRIPT, TO THE BEST OF MY ABILITY, MADE FROM THE  
9 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER, AND THAT THE  
10 TRANSCRIPT FEES AND FORMAT COMPLY WITH THOSE PRESCRIBED BY  
11 THE COURT AND JUDICIAL CONFERENCE OF THE UNITED STATES.

12

13 /s/Lily I. Reznik

September 16, 2021

14 LILY I. REZNIK, CRR, RMR  
Official Court Reporter  
15 United States District Court  
Austin Division  
16 501 W. 5th Street, Suite 4153  
Austin, Texas 78701  
17 (512) 391-8792  
SOT Certification No. 4481  
18 Expires: 1-31-23

DATE

19

20

21

22

23

24

25